

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JULY 17, 2007

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Also in attendance was Superintendent Huskey.

Debra Scott of IABR, Lisa Goldner and Tim O'Hara of Bose McKinney, Brady Herrmann and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the July 3, 2007 meeting. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the July 17, 2007 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the

inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Three hundred fifty-seven (357) renewals approved, fifty-nine (59) new and/or transfer permits approved, ten (10) permits approved for catering, six (6) permits approved for first year escrow, four (4) permits approved for second year escrow, five (5) permits approved for third year escrow and one (1) permit approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

DL66-23213 GOOD OIL COMPANY, INC., d/b/a GOOD TO GO #60 – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR45-04254 PACIFICO CLUB, INC. – Chairman Heath noted this is a type 210 transfer of ownership and location with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the transfers, because the board feels there is no need or desire by the community to receive such services. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR79-23167 VUZ, INC. – Chairman Heath noted this is a new type 209 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated there is a controversy regarding this new permit and the proximity to a church. The alcoholic beverage permit assigned to this location is currently in escrow. Our staff attorney spoke with the Excise officer that sits on the board and stated that this location should be grandfathered because the location has been in continuous operation as a food service and; therefore, the 200 foot rule would not apply to the new permit.

Commissioner Guthrie moved to overturn the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR43-91544 THE BARBEE LANDING, INC. – Chairman Heath noted this is a type 209 renewal application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal of the permit because of the past criminal violations and moral character of the permittee. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL32-23244 KOCOLINE MARKETING LLC – Chairman Heath noted this is a new type 104 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR82-04808 CHANCES R, INC. – Chairman Heath noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal because the permittee has not been a five-year resident and has only sold \$200.00 in food in the last year. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL82-00346 VARSITY LIQUORS OF EVANSVILLE, LLC – Chairman Heath noted this is a type 217 transfer of ownership and location with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the transfer. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR49-10919 PURE GOLD VENTURES, INC., d/b/a THE GROVE SPORTS BAR – Chairman Heath noted this is a type 210 renewal with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL45-05467 DEKALB STREET LIQUORS, INC. – Chairman Heath noted this is a type 217 renewal with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and disapprove the renewal because of the citations for selling drug paraphernalia and allowing the premises to become a public nuisance. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL49-22394 SPEEDWAY SUPERAMERICA, LLC – Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board's reasoning for the recommendation was because there was nothing presented to prove that this applicant fit the definition of a grocery store and the sale of gasoline and alcoholic don't mix.

Commissioner Guthrie moved to overturn the local board and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-22464 SPEEDWAY SUPERAMERICA, LLC - Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board's reasoning for the recommendation was because there was nothing presented to prove that this applicant fit the definition of a grocery store and the sale of gasoline and alcoholic don't mix.

Commissioner Guthrie moved to overturn the local board and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-22468 SPEEDWAY SUPERAMERICA, LLC - Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board's reasoning for the recommendation was because there was nothing presented to prove that this applicant fit the definition of a grocery store and the sale of gasoline and alcoholic don't mix.

Commissioner Guthrie moved to overturn the local board and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-22388 SPEEDWAY SUPERAMERICA, LLC - Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board's reasoning for the recommendation was because there was nothing presented to prove that this applicant fit the definition of a grocery store and the sale of gasoline and alcoholic don't mix.

Commissioner Guthrie moved to overturn the local board and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-22440 SPEEDWAY SUPERAMERICA, LLC - Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board's reasoning for the recommendation was because there was nothing presented to prove that this applicant fit the definition of a grocery store and the sale of gasoline and alcoholic don't mix.

Commissioner Guthrie moved to overturn the local board and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-22392 SPEEDWAY SUPERAMERICA, LLC - Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board's reasoning for the recommendation was because there was nothing presented to prove that this applicant fit the definition of a grocery store and the sale of gasoline and alcoholic don't mix.

Commissioner Guthrie moved to overturn the local board and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

INACTIVE FILES

Vice Chairman Johnson moved to make twenty-five (25) permits inactive. Eight (8) permits are subject to auction and seventeen (17) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

OLD BUSINESS

DL20-23176 GOOD OIL COMPANY, INC., d/b/a/ GOOD TO GO #75 - Commissioner Guthrie noted he received communication from the attorney of record in this matter stating that there may be a problem with the record regarding this recommended denial by the local board and requesting the commission not take action until he reviewed the record. That request was not passed along to the commission and the commission upheld the local board. Commissioner Guthrie stated after reviewing the information that was provided by the attorney, it appears that the only remonstrator present at the hearing was not a member of the neighborhood, but a county commissioner who is against convenience stores selling gasoline and alcohol.

Commissioner Guthrie moved to overturn the original denial and approve this new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2007.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER